

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

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In Re: Ski Train Fire in Kaprun : 01-md-1428 (SAS)  
Austria On November 11, 2000 :  
-----X

This document relates to the following actions:  
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Blaimauer et al Plaintiffs, :  
- v - : 03-cv-8960 (SAS)  
Omniglow et al :  
Defendants :  
-----X

Geier et al Plaintiffs, :  
- v - : 03-cv-8961 (SAS)  
Omniglow et al Defendants :  
-----X

Mitsumoto et al Plaintiffs, :  
- v - : 06-cv-2811 (SAS)  
The Republic of Austria et al, :  
Defendants :  
-----X

Mitsumoto et al Plaintiffs, :  
- v - : 07-cv-935 (SAS)  
Robert Bosch Corporation et al :  
Defendants :  
-----X

Stadman et al Plaintiffs, :  
- v - : 07-cv-3881 (SAS)  
Austrian National Tourist Office Inc. et al :  
Defendants :  
-----X

Ferk et al Plaintiffs, :  
- v - : 07-cv-4104 (SAS)  
Omniglow Corporation et al :  
Defendants :  
-----X

NOTICE OF APPEAL

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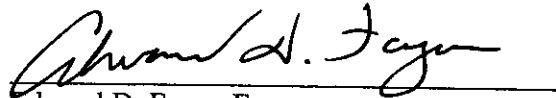
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U.S. COURT OF APPEALS  
SECOND CIRCUIT  
NORTH BOSTON, MASS.

U.S. DISTRICT COURT  
S.D.N.Y.

Notice is hereby given that all Edward D. Fagan, hereby appeals to the United States Court of Appeals for the 2<sup>nd</sup> Circuit from the June 10, 2008 Order of the Hon. Shira A. Scheindlin USDJ, entered by the Clerk of the Court on June 16, 2008 (*See composite Exhibit 1*).<sup>1</sup>

Dated: July 15, 2008



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<sup>1</sup> I note from the Court's Docket entries that the Notice of Right to Appeal letters do not appear to have been sent directly to those parties and/or their legal representatives who previously notified the Court in on October 16, 2007 (as per the Court's August 16, 2007 Order) of their intention to proceed with the cases in the District Court even on a *Pro Se* basis. As such those parties and/or their legal representatives may not have proper notice of the June 10, 2008 Order (entered on June 16, 2008) and/or proper notice of their right to appeal and/or right to move for reconsideration of the Order. It may be that those parties will wish to join this appeal and/or file other applications with this Court or with the Court of Appeals.

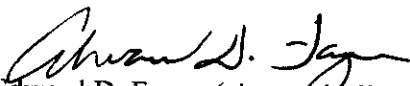
**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I caused the within Notice of Appeal to be filed with the Clerk of the Court and a courtesy hard copy is being served upon all counsel of record in this case as per the attached, as well as the parties and/or their legal representatives who on or about October 16, 2007 previously notified the District Court of his/her/their intentions to individually continue their claims in the District Court.

A courtesy copy of the papers is being forwarded to the Hon. Shira A. Scheindlin USDJ.

Additional courtesy copies are being electronically, faxed and/or served and to counsel of record.

Dated: July 15, 2008  
New York, NY

  
/s/ Edward D. Fagan (electronically signed)

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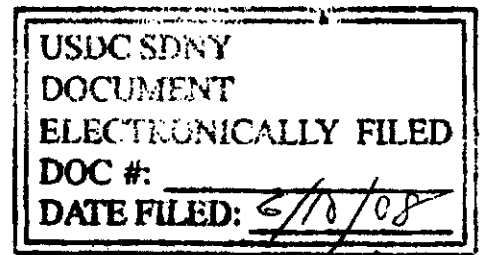
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**Notice to Plaintiffs' Counsel of Record and/or Legal Representatives**

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
IN RE: SKI TRAIN FIRE IN KAPRUN :  
AUSTRIA ON NOVEMBER 11, 2000 :  
-----X

This document relates to the following actions:

-----X  
JOHANN BLAIMAUER, et al., :

Plaintiffs, :

- against - :

OMNIGLOW CORPORATION, et al., :

Defendants. :

-----X  
-----X  
HERMAN GEIER, et al., :

Plaintiffs, :

- against - :

OMNIGLOW CORPORATION, et al., :

Defendants. :

-----X  
-----X  
NANAE MITSUMOTO, et al., :

Plaintiffs, :

- against - :

THE REPUBLIC OF AUSTRIA, et al., :

Defendants. :

-----X

MDL # 1428 (SAS)

ORDER

03-CV-8960 (SAS)

03-CV-8961 (SAS)

06-CV-2811 (SAS)

1  
Exhibit 1

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NANAE MITSUMOTO, et al.,	:	
	:	
Plaintiffs,	:	
	:	
- against -	:	07-CV-935 (SAS)
	:	
ROBERT BOSCH	:	
CORPORATION, et al.,	:	
	:	
Defendants.	:	
-----X		
-----X		
JOOP H. STADMAN, et al.,	:	
	:	
Plaintiffs,	:	
	:	
- against -	:	07-CV-3881 (SAS)
	:	
AUSTRIAN NATIONAL TOURIST	:	
OFFICE INC., et al.,	:	
	:	
Defendants.	:	
-----X		
-----X		
RASTKO and DRAGICA FERK, et al.,	:	
	:	
Plaintiffs,	:	
	:	
- against -	:	07-CV-4104 (SAS)
	:	
OMNIGLOW CORPORATION, et al.,	:	
	:	
Defendants.	:	
-----X		
SHIRA A. SCHEINDLIN, U.S.D.J.:		

By Opinion and Order dated June 19, 2007 (the "June 19 Order"), this Court dismissed five of the six above-captioned actions on the ground of forum

non conveniens. The Clerk of the Court entered judgment on July 9, 2007 dismissing and closing those cases, which bear civil action numbers 03 Civ. 8960, 03 Civ. 8961, 06 Civ. 2811, 07 Civ. 0935, and 07 Civ.3881.<sup>1</sup> On July 31, 2007, plaintiffs in these actions moved for reconsideration and other relief pursuant to Local Rule 6.3 and Fed. R. Civ. P. 60(b).

By Opinion and Order dated August 16, 2007 (the "August 16 Order"), this Court disqualified Edward D. Fagan from further participation on behalf of plaintiffs in all of the above-captioned cases. Because plaintiffs did not retain counsel within thirty days or notify the Court of their intention to proceed pro se within sixty days of the August 16 Order, the pending motions for reconsideration were deemed moot and withdrawn.<sup>2</sup> Although the August 16 Order directed the Clerk of the Court, once again, to enter judgment dismissing the actions should plaintiffs fail to comply, no subsequent judgment was entered. The Clerk of the Court is hereby directed to enter a final judgment dismissing these actions pursuant to the August 16 Order.

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<sup>1</sup> The case captioned *Ferk, et al. v. Omniglow Corp., et al.* ("*Ferk*"), bearing civil docket number 07 Civ. 4104, was accepted by this Court as related to 03 Civ. 8960 on June 11, 2007 but was not dismissed by the June 19 Order. However, Fagan was disqualified from serving as counsel in *Ferk* (in addition to the cases dismissed by the June 16 Order) pursuant to the August 16 Order. For the reasons set forth in the June 19 Order, the Clerk of the Court is directed to enter judgment and close the *Ferk* action.

<sup>2</sup> See 10/18/07 Order.



By letter dated June 5, 2008, disqualified counsel Edward D. Fagan requested that the Court enter the August 16 Order as a final judgment pursuant to Fed. R. Civ. P. 54(b). That request is denied. However, Mr. Fagan may bring to the attention of the Court of Appeals that a final judgment has now been entered in all of the above-captioned cases.

SO ORDERED:



Shira A. Scheindlin  
U.S.D.J.

Dated: New York, New York  
June 10, 2008

**- Appearances -**

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